

Choosing a Matrimonial Attorney - A Mediator's Perspective



By: Anju D. Jessani, MBA, APM - Accredited Professional Mediator

Whether you choose to mediate or litigate, in all likelihood, you will still require the services of an attorney to review your mediated agreement, prepare the property settlement agreement, and file for your divorce. I get numerous phone calls asking for referrals to attorneys (by the way, not a bad way to get a good referral!). My usual answer is that often, the challenge is finding the right attorney for your case, and that you really need to do your homework before choosing a matrimonial attorney.

I suggest you start by preparing a potential list of lawyers from names provided by relatives and friends; the best source for professional service providers comes from satisfied clients. You can call your local bar association and chamber of commerce for additional names. You can also check your local mediation site for a list of attorney mediators. In New Jersey, 60% of the mediators with the New Jersey Association of Professional Mediators (www.njapm.org) are also attorneys.

It is recommended that you interview at least three law firms before choosing an attorney. Many attorneys provide free initial consultations or will ask for only a nominal fee. Explain when you are setting up the initial consultation that you wish to obtain a sound evaluation of your legal situation, and to see if you are comfortable about working together. Bring all pertinent written information with you such as last year's tax return, bank account and brokerage statements, mortgage statements and recent credit card bills.

Based on the collective wisdom of colleagues, here are some areas you may want to focus on during the interview:

- ***Qualifications - Ask the attorney to describe their legal training, how long they have practiced family law, how many family law cases they have handled, and what proportion of their time is spent on family and divorce matters. If the answer is less than 30%, this attorney may not spend sufficient time in this practice area to stay abreast of new developments and current case law.***
- ***Attorney's Philosophy - Ask the attorney about his/her view on child custody, visitation/parenting time, support, etc. What are his/her feelings about shared custody? Inquire about his/her outside activities and professional associations, as they will tell you a lot about his views. Will***

the lawyer first seek to resolve the matter amicably in lieu of the traditional adversarial approach? Seek to work with any attorney who is receptive to your ideas and desires. Its always for telling to meet the attorney at his/her office as you can learn much about their outlook from the awards they have received, the photographs they display, the books they read, etc.

- ***Fees*** - *Inquire how much do they charge, in what increment of billable time, who will actually do the work, and whether a flat or mixed fee arrangement be worked out. Be aware that novices often charge less for an hour but may require more time to handle a problem. What are the specifics of the retainer arrangement as well as costs for travel, meals, administrative assistance, etc.? In New Jersey attorneys are required to submit bills on a periodic basis - ask him/her to explain their billing procedures.*
- ***Point-of-View*** - *Once you have presented the facts, the attorney should be able to point out the strengths and weaknesses of your case, assess your probability of achieving your goals and be able to give you an estimate of how long your matter will take to resolve and make an estimate of the approximate legal fees they would anticipate. Some lawyers neglect to give honest appraisals, and clients are then misled and spend large sums of money on losing causes. Ask the lawyer to also estimate what the minimum and maximum of the fee might be.*
- ***Work Style*** - *Will the attorney return phone calls within 24 hours? In his/her absence, how will your inquiries be answered? How are you charged for these inquiries? Does the attorney utilize e-mail? Will the attorney agree to keep you apprised of all developments in your case and make no offers or agreements without first consulting you? Make sure that the attorney will be available to you, and that you are comfortable with his/her work style and manner.*
- ***Handling Your Case*** - *Be sure that the lawyer of your choice will be working on your matter. People often go to prestigious firms expecting their problem to be handled by the lawyer they contacted initially, only to be surprised that the case had been turned over to a junior associate. To avoid this, state in the retainer agreement that the matter is to be handled by the lawyer of your choice.*
- ***Referrals to Others*** - *Does your attorney work with or refer clients to mediators, mental health professionals, tax professionals, appraisers, etc. When appropriate? Does he get a fee or any type of remuneration for these referrals (he/she should not be in a position to gain financially from these referrals)?*

The late Elaine Majewski, an advocate for divorce reform, offered the following clues you should be aware of at the initial interview:

Were you received at the appointed hour or kept waiting?

Did the attorney presented an outward appearance of neatness and good grooming?

Did the attorney discuss the fee arrangement with you up-front?

Was the lawyer a clock-watcher?

Did the attorney leave the room frequently during the interview or permit phone calls?

If the case appears to be adversarial in nature, Majewski also suggested that you might want to observe the attorney in a courtroom setting to see how he/she handles themselves, and how the judges react to him/her. Find out when the attorney will be in court and sit in and observe.

She also suggested that you could look up the attorneys' rating at Martindale-Hubbell. Additionally, inquire whether you can speak to previous clients; references will help you learn more about an attorney's real strengths and weaknesses. If you do not feel comfortable with the lawyers you interview, shop around some more. Don't settle because you are in a hurry.

It is important the lawyer you choose is open and responsive to your needs, and that you feel comfortable that your case will be prepared and handled properly. Selecting the wrong lawyer can cost you untold aggravation and expense. You are paying the bills and you will have to live the results. So be a smart consumer and do your due diligence before you make this important decision.



Copyrighted by [Anju D. Jessani, MBA, APM - Accredited Professional Mediator](#)
Please contact us for more information at ajessani@dwmediation.org

